

USSN:10/776,934

Group Art Unit:1635

**REMARKS**

Claims 1-152 were pending in the application. Claims 1, 2, 4, 17, 18, 22, 39-44, 47, 53-119, and 125-152 have been canceled without prejudice. Claims 3, 5, 13-16, 19, 20, 21, 23, 37, 38, 45-46, 48-51, 120 and 121 have been amended, and new claims 153-169 have been added. Accordingly, after the amendments presented herein have been entered, claims 3, 5-16, 19-21, 23-38, 45-46, 48-52 and 120-124, 153-169 will remain pending.

Support for the new claims can be found throughout the specification and in the claims as originally filed. Specifically, support for the amendments to the claims and for the new claims can be found in Table 1 (SEQ ID NOs:660-663).

*No new matter has been added.* Any cancellation of the claims should in no way be construed as an acquiescence to any of the Examiner's rejections and was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s).

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**Response to Restriction Requirement**

In response to the restriction requirement set forth in the Office Action mailed July 20, 2005, Applicants hereby elect Group I (Claims 1-87 and 120-124) for continued examination, without traverse.

The Examiner has further required the election of a single species if Group I is chosen for prosecution on the merits. Applicants hereby elect SEQ ID NO: 661, *with traverse*. Applicants traverse requirement for the election of a single species.

Applicants believe that the requirement for the election of a single species for continued prosecution is improper. Claim 153 is directed to a genus of compounds derived from the compounds set forth as SEQ ID NOs:130 and 660-663. Accordingly, claim 153 is generic to the species set forth as SEQ ID NO:130 and 660-663.

Applicants believe that a search of a single sequence, i.e., SEQ ID NO:661 will be coextensive with a search of the genus set forth in claim 153. The primary sequence of SEQ ID NO:661, i.e., CTCAATCCATGGCAGC, is the same as the primary sequence of the molecules set forth as SEQ ID NOs:130, 660 and 662-663. The molecules set forth as SEQ ID NO:130 and 660-663 differ only by the presence and number of nucleotide analogs and the type of linkage used to attach the nucleotides and/or nucleotide analogs to the neighboring nucleotide and/or nucleotide analog. Accordingly, Applicants believe that a search of the genus set forth in claim 153 will not be burdensome on the Examiner.

Further, the claimed compounds are related not only by structure as described above, but also by function. Each of the identified compounds is designed for use as an antagonist knockdown Survivin levels in cells. In fact, SEQ ID NO:660 has been shown to downregulate Survivin levels by 77% (see Table 1).

Based on the structural and functional similarities of the compounds represented in the amended claims, Applicants respectfully request that the genus of compounds represented in claim 153 be used for prosecution on the merits.

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However, if the Examiner maintains the requirement for restriction, Applicants respectfully submit that they have provided a generic claim, i.e., claim 153, and therefore, respectfully request that the Examiner reconsider and withdraw the requirement for the election of a single species for prosecution on the merits. Applicants respectfully submit that an election of a single species for search purposes under 35 U.S.C. 121 is more appropriate than the election of a single species for prosecution on the merits. For search purposes Applicants request that the Examiner use SEQ ID NO:661. Applicants understand that the claims will be restricted to this species if no generic claims is finally held allowable. Further, Applicants understand that upon the allowance of a generic claim, consideration will be given to the additional species as set forth in 37 C.F.R. 1.141 *et seq.*

Moreover, Applicants reserve the right to pursue claims directed to canceled or restricted subject matter in this or separate applications.

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CONCLUSION

Applicant believes that no fee is due in connection with this amendment. However, if a fee is due, please charge any fees required in connection with the papers transmitted herewith to Deposit Account No. 04-1105.

In view of the above amendment, Applicants believe that the pending application is in condition for allowance. If a telephonic conversation would be helpful, the Examiner is urged to contact the undersigned.

Dated: January 20, 2005

Respectfully submitted,

By 

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